
Opinion No. CV 74-60—August 12, 1975

SUBJECT: COLONIC IRRIGATIONS — CHIROPRACTOR — ADVERTISE-
MENT—Since a colonic irrigation constitutes treatment and is therefore the practice of medicine pursuant to the Medical Practice Act, a chiropractor performing colonic irrigation at a patient's request but not suggesting such procedure as an ailment remedy is engaged in the practice of medicine. A chiropractor's advertisement aimed at offering to perform colonic irrigations constitutes a violation of Business and Professions Code section 2141.

Requested by: BOARD OF MEDICAL EXAMINERS

Opinion by: EVELLE J. YOUNGER, Attorney General
Mark A. Levin, Deputy

The Board of Medical Examiners has requested an opinion on the following questions:

1. Does colonic irrigation constitute treatment, and therefore the practice of medicine, pursuant to the Medical Practice Act?

2. Is a chiropractor who performs a colonic irrigation pursuant to a patient's request, without suggesting such procedure to the patient as a remedy for an ailment, engaged in the practice of medicine?

3. Does the wording of the following advertisement constitute a violation of section 2141 of the Business and Professions Code?

"Colonic Irrigation, a Natural, Clean, Safe Way of Treating Chronic Condition of the Colon. Please call for Information."

The conclusions are:

1. Colonic irrigation constitutes treatment, and therefore is the practice of medicine, pursuant to the Medical Practice Act. Furthermore, such treatment does not fall within the scope of the definition of chiropractic.

2. A chiropractor who performs a colonic irrigation pursuant to a patient's request, without suggesting such procedure to the patient as a remedy for an ailment, is engaged in the practice of medicine.

3. The following advertisement constitutes a violation of section 2141 of the Business and Professions Code:

"Colonic Irrigation, a Natural, Clean, Safe Way of Treating Chronic Condition of the Colon. Please call for Information."

ANALYSIS

The first question presented is whether a colonic irrigation constitutes treatment and, therefore, is the practice of medicine.

Colonic irrigation involves washing out the colon with a stream of fluid. See definition of colonic, Stedman's Medical Dictionary 269 (22d ed. 1972); see also definition of irrigation, *id.* at 649. Thus, a colonic irrigation is similar to an enema, which is:

"The injection of a fluid through the rectum into the large intestine. Generally an enema is used to facilitate the emptying of the bowel in cases of constipation. For this purpose the use of plain warm water (one pint to two quarts) is sufficient. Sometimes soap, salt, or glycerin is added." Schmidt's Attorneys' Dictionary of Medicine E-37 to 38 (1974).

Colonic irrigation for the purpose of relieving constipation involves the irrigation of the lower colon. Cecil & Loeb, *A Textbook of Medicine* 850 (12th ed. 1967). Colonic irrigations are also used to treat the bowel in certain cases of inflammation and irritation. Schmidt's Attorneys' Dictionary of Medicine, *supra* at E-38.

It is clear from the foregoing that colonic irrigations are administered in all cases for the purpose of treating a condition, *i.e.*, constipation and inflammation and irritation of the bowel. Therefore, it is concluded that colonic irrigation constitutes treatment.

Section 2137 of the Business and Professions Code¹ provides that "treatment of diseases, injuries, deformities, or other physical or mental conditions" is authorized by the California physician's and surgeon's certificate. See *Stevenson v. State Bd. of Medical Examiners*, 10 Cal. App. 3d 433, 438 (1970). Section 2141 of the Business and Professions Code prohibits treatment of the sick or afflicted in California by anyone not holding a valid physician's and surgeon's certificate, unless such treatment is permitted by virtue of another license issued to said individual. Therefore, the administration of a colonic irrigation, which is a form of treatment, constitutes the practice of medicine.

The foregoing analysis necessarily presents the additional question of whether treatment consisting of colonic irrigation falls within the scope of the definition of the practice of chiropractic. It is the conclusion of this office that it does not.

Section 7 of the Chiropractic Act sets forth the scope of the practice of chiropractic as follows:

"... [a license to practice chiropractic] shall authorize the holder thereof to practice chiropractic in the state of California as taught in chiropractic schools or colleges; and, also, to use all necessary mechanical, and hygienic and sanitary measures incident to the care of the body, but shall not authorize the practice of medicine, surgery, osteopathy, dentistry or optometry, nor the use of any drug or medicine now or hereafter included in materia medica." Initiative Measure, Stats. 1923, p. xxii, § 7.

The above provision does not specify, on its face, what procedures a chiropractor may utilize in practicing his profession. In 1963, the court of appeal explained in detail the meaning of this section. In approving a finding of the superior court, the court of appeal held that a chiropractor is authorized to practice:

"... a system of treatment by *manipulation* of the joints of the human body by *manipulation* of anatomical displacements, articulation of the spinal column, including its vertebrae and cord, and he may use all necessary, mechanical, hygienic and sanitary measures incident to the care of the body in connection with said system of treatment, but not for the purpose of treatment, and not including measures as would constitute the practice of medicine, surgery, osteopathy, dentistry, or optometry, and without the use of any drug or medicine included in materia medica.

¹ The complete text of Business and Professions Code section 2137 is as follows:

"The physician's and surgeon's certificate authorizes the holder to use drugs or what are known as medical preparations in or upon human beings and to sever or penetrate the tissues of human beings and to use any and all other methods in the treatment of diseases, injuries, deformities, or other physical or mental conditions."

"A duly licensed chiropractor may make use of light, air, water, rest, heat, diet, exercise, massage and physical culture, *but only in connection with and incident to the practice of chiropractic as hereinabove set forth.*" (Emphasis added.) *Crees v. California State Board of Medical Examiners*, 213 Cal. App. 2d 195, 202, 214 (1963); *see also* Title 16, California Administrative Code section 302(a).

Thus, although a chiropractor may not practice medicine or surgery, an exception is created by the Chiropractic Initiative Act permitting treatment by manipulation. *People v. Mangiagli*, 97 Cal. App. 2d Supp. 935, 938 (1950); Business and Professions Code section 2141; *see also* 39 Ops. Cal. Atty. Gen. 228, 229 (1962).

As stated earlier, colonic irrigations may be used as a form of treatment for constipation. They are also used to treat the bowel in certain cases of inflammation and irritation. Such treatment certainly cannot be classified as manipulation. Manipulation must be performed with the hands. *Crees v. California State Board of Medical Examiners*, *supra* at 211; *People v. Augusto*, 193 Cal. App. 2d 253, 257 (1961); *see also* *People v. Fowler*, 32 Cal. App. 2d Supp. 737, 745-47 (1938).

It might be contended that a chiropractor may perform a colonic irrigation as a hygienic or sanitary measure incident to the care of the body. *See* Initiative Measure Stats. 1923, p. xxii, § 7. This contention is without merit. In *Crees v. California State Board of Medical Examiners*, *supra* at 202, 214, the court held that hygienic and sanitary measures incident to the care of the body must be performed in connection with a system of treatment involving manipulation of anatomical displacements, articulation of the spinal column, etc. *See also* Title 16, California Administrative Code section 302(a). Thus, since a colonic irrigation does not involve the manipulation of the inside of the patient's colon with one's hands, it does not come within the scope of chiropractic and cannot be performed by a chiropractor. In 58 Ops. Cal. Atty. Gen. 595. (CV 73/316), issued this date, this office determined that a chiropractor could not direct or supervise the giving of a colonic irrigation by a physical therapist.

The second question presented is whether a chiropractor would be practicing medicine if he performs a colonic irrigation at a patient's request, without suggesting the procedure to the patient as a remedy for an ailment. It is the conclusion of this office that a chiropractor would be practicing medicine in this situation. Business and Professions Code section 2141 provides as follows:

"Any person, who practices or attempts to practice, or who advertises or holds himself out as practicing, any system or mode of treating the sick or afflicted in this State, or who diagnoses, treats, operates for, or prescribes for any ailment, blemish, deformity, disease, disfigurement, disorder, injury or other mental or physical condition of any person, without having at the time of so doing a valid, unrevoked . . . [physician's and surgeon's certificate], or without being authorized to perform such act pursuant to a

certificate obtained in accordance with some other provision of law, is guilty of a misdemeanor."

Among other things, section 2141 of the Business and Professions Code prohibits actual treatment by one not appropriately licensed to administer such treatment. Therefore, pursuant to the discussion of the first question presented, a chiropractor administering a colonic irrigation would be engaged in the unlicensed practice of medicine regardless of who suggested the procedure.

The final question presented is whether the following advertisement constitutes a violation of section 2141 of the Business and Professions Code:

"Colonic Irrigation, a Natural, Clean, Safe Way of Treating Chronic Condition of the Colon. Please call for Information."

Section 2141 of the Business and Professions Code, as set forth above, prohibits one from advertising that he is practicing any system or mode of treating the sick or afflicted in California if he is not licensed as a physician and surgeon or otherwise licensed to perform the advertised procedure. The above advertisement clearly indicates that the advertising chiropractor is offering to perform colonic irrigations. Although it is possible that the advertisement is merely encouraging people to call for information in connection with colonic irrigations, it is doubtful that this is the purpose of such advertisement and therefore such interpretation is rejected.

Assuming that the above advertisement is interpreted as a solicitation of patients in order to administer colonic irrigations to them, such advertisement constitutes a violation of section 2141 of the Business and Professions Code. Since a chiropractor cannot perform a colonic irrigation by virtue of his license to practice chiropractic, he cannot, through the above quoted advertisement, hold himself out as willing to perform such procedure. Business and Professions Code section 2141.

In summary, a colonic irrigation is treatment and, therefore, the practice of medicine. Such treatment does not fall within the scope of the definition of the practice of chiropractic. A chiropractor performing a colonic irrigation as a remedy for an ailment would be engaged in the unlicensed practice of medicine regardless of who suggested the performance of such procedure. A chiropractor who advertises that he will administer colonic irrigations would be in violation of section 2141 of the Business and Professions Code.
